

MONTANA POST COUNCIL

The Montana POST (Peace Officer Standards and Training) council was formed in 1972. Originally the POST council was an advisory council to the Montana Board of Crime Control (MBCC) and only certified Montana's Peace Officers.

The current Council was formed in 2007 under 2-15-2029, MCA as an independent Quasi-judicial board known as the POST (Public Safety Officer Standards and Training Council). The council was given two staff members consisting of an Executive Director and Executive Assistant to the Director, an operating budget of \$4,500.00, and was administratively attached to the Department of Justice. Legal services were provided at no cost by an Assistant Attorney General who was assigned to the Law Enforcement Academy.

Per 44-4-403, MCA the Council is required to set employment and training standards for all Public Safety Officers as defined in 44-4-401, MCA, which include correction and detention officers, communication officers and probation and parole officers. In addition the Council shall provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

To fulfill these statutory responsibilities to the public, the Council adopted rules that require the staff to receive and investigate all complaints made against any public safety officer. In 2010, POST opened 55 investigative files. In 2011 an additional 31 cases were opened and another 28 in 2012 for a three year total of 114.

In mid-2011, the attorney that had been providing no-cost legal services to the POST Council left the employment of the Department of Justice and a replacement was not provided. The POST Council began to be required to contract for legal service through the state Agency Legal Services. In May of 2012, the current Assistant Attorney General that POST is using for contested cases was assigned as contracted services. In August of 2012 the POST Council was required to hire separate legal counsel for the POST Council requiring two separate contracted attorneys.

The true cost of legal services had never been captured in previous budgets. As an example, POST staff and legal counsel spent over 192 hours on three contested cases alone. POST staff and legal counsel (and legal counsel's staff) followed up on every allegation, witness, and potential lead that was provided from all of the various sources in the files. POST legal counsel took these three cases all the way through the end of the "discovery" stage of the Montana Administrative Procedure Contested Case hearing process in front a hearing examiner. Additionally, POST spent over \$13,000 in expenses and legal fees on these three cases alone—which does not include the cost of all the work done by POST's permanent staff.

These three cases are a small part of the 114 cases that POST has opened and processed since 2010. Of those 114 cases POST has opened in the last three years, POST has processed and resolved (through suspension, revocation, stipulated sanction, or dismissal) all but 12 cases. Of the 102 cases that have been closed, 15 were by decertification, 9 were by suspensions and 7 were by various agreed stipulations. The remainder of the cases were closed with various findings. During the 2012/2013 fiscal year, the POST Council has accumulated to date over \$100,000 in legal fees that had not been budgeted for.

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